

1887-035 Chonary Causes: Jacobs Morris vs. Jacobs Flanary
Lee Co.

Barker, Adams, Word

CA-Debt
T-Property

To The Hon. H. S. K. Morrison Judge
of the Circuit Court of Lee
County Va.

Your orator Jacob.
Morris, humbly complaining
would respectfully represent that
heretofore, on the 24th. day of Sept.
1885, your orator sold, one Jacob
Flanary, a tract of land situated
in Lee County, in what is known
as the Crab Orchard, properly de-
scribed in your orators deed for
the same. a copy of which will
in due time be filed as part
hereof. For a part of the pur-
chase money contracted to be paid
for said land, said Flanary on
the day first stated above executed
his bond to your orator for the
sum of eighty dollars made pay-
able by the first day of Sept 1886
which as appears upon its face,
could be paid in good sound coin
or good property or work, at a fair
cash value - And waived the benefit
of his homestead exemption as to said
debt. on this bond there was paid
\$5.00 Sept 10. 1885; and \$11.18^c. May 1st 1886.
The residue of this bond is still due & unpaid

* After this purchase was made he sold the defendant a horse & a house & a lot in two pieces
one for \$50, & the other for \$100. For which he took no note, but made an account & then this
is due also & unpaid - And he warranted upon the same and to purchase a judgment against
your orator & took an appeal and by consent the name is here made a part of this bill
and the name is also unpaid & paid - And he collected with the other part.

This bond together with the endorse-
ments thereon are herewith filed as
part hereof. Marked "A" As before
hinted your orator has conveyed by
deed this land - but upon the face
of said deed your orator retained
a lien for said purchase money - And
is advised the same can be enforced
against said land & the same or a
sufficiency thereof sold to pay the
same. To have said land sold &
the residue paid, which is still
due thereon is the object of this bill.

The premises considered, he prays
that Jacob Flanary be made a
party defendant to this bill, and
answer its allegations upon oath
and on a hearing a decree be
rendered in conformity with the
object of this bill - And for all
other further and general relief
May your honor issue &c.

A. L. Frielmore
P. 2.

6 7.96
 8 2.00
 CA 15.00
 24.96
 15.00
 9.96
 6.50
 3.46

JP
 Jacob Morris

vs Bill Chy

Jacob Flanary
 A "filed"

1887 Febury Bill Filed Spis
 Executed and Decree his
 " Mr. D. N. Couflet & Cause
 set for hearing
 " March Term Decree & Contd
 " Aug. Decree & Contd
 " Apr. Decree
 Final

By the 1st day of Sept 1886 I promise
to pay Jacob Morris eighty dollars
which may be paid in Good Sound Corn
or good property or work which shall be
at a fair cash value, ^{for value received of him,} and I hereby waive
the Homestead as to this debt witness my
hand and seal this Sept 24th 1887

Jacob + Mary
mark Seal

Cr the within note \$11.18.cts this May the 1st 1886
on the within five dollars this this the 10 day
of Sept 1885

To the Hon H. S. R. Morris Judge of the Circuit
Court of Lee County Virginia:

The Petition of Elkens D. Barker would respectfully represent unto your Honor, that one Jacob Morris has lately instituted in your Honors Court a chancery Suit against one Jacob. Flannery and the same is still pending in said Court, the object of which is to recover against said Flannery certain claims therein referred to. And to subject to Sale the tract of land in the bill mentioned to pay said claims.

Your petitioner now states that before the institution of said suit, he purchased from said Jacob. Flannery the tract of land sought to be sold by said suit, and he is now in the possession thereof, and was so possessed at the time said suit was instituted; and Petitioner avers that before making said purchase from said Flannery, he saw the plaintiff Morris, and made a satisfactory arrangement with him in reference to the time when the balance due ~~of~~ ^{to} him as Flannery was filed as exhibit (A.) with his bill, should be paid. and owing to this arrangement so made with the Peff Morris Petitioner purchased said land subject to the purchase money him evidenced by said Exhibit (A) with the credits therein enclosed.

From these facts it is seen that petitioner is interested in the subject matter of said suit and in order to enable him to show his rights in the premises he prays that the plaintiff be required to so amend his bill as to make petitioner a deft. thereto and as in duty bound he will ever pray &c.

E. W. Barker by counsel

I do swear that the statements of the foregoing Petitioner
are true as I verily believe so help me god.

Elkanah D. Barker
mark

Sworn to before me by E. D. Barker

this 30th day of March 1887.

H. J. Mergen Com.

Elkanah D. Barker

Ad. } Petition

Jacob Morris

Filed March 30th 1887
J. C. Alden

To the Hon. H. H. Merison Judge of the Circuit Court
of Lee County Virginia:

The separate Answer of Elkanah D. Barker
to a bill filed in this honorable court against him and
Jacob Flannery, by Jacob Morris:

Respondent says he supposes it is true that his
co-defendant Flannery is justly owing the plaintiff the
balance due upon the note or bond said in exhibit (A),
subject to the credits thereon endorsed. And as to whether
or not the vendor him was advised in the face of the
deed, by which the plaintiff conveyed the land to said
Flannery, this respondent is not advised at present
as to whether that allegation is true or not, for as yet neither
the deed, nor a copy thereof has been filed in support of that
allegation. Respondent does not contest the Plffs
right to recover against said Flannery all that he claims
in his bill, neither does he contest the Plffs right to
subject the tract of land in the bill mentioned, or so much
thereof as may be necessary to the payment of the balance
due on the note filed as exhibit (A) with his bill, after the
25th day of Dec: 1887. if the same be not paid by that time.
But respondent denies the plaintiffs right to subject said
land or any part thereof to the payment of the \$5.00
and \$6.00 items for a House Site referred to in the Plffs bill
and he also denies the plaintiffs right to subject any
part of said lands to the payment of any part of the
costs of this suit, but he has nothing to say as to whether
the plffs shall or shall not recover costs against said Flannery.

Respondent will now show the reasons why he denies the rights of the plaintiff before set out.

Respondent says that he is the owner by purchase from his co. deft. Flannery, of the tract of land sought to be sold and before making said purchase, said Flannery informed ^{him} that the plaintiff held a purchase money lien on said land for about \$64. or \$65.00 with a small amount of interest, and that as he Flannery was going to leave the country, if he sold said land, he should require all the purchase price paid in hand except the balance due the plaintiff and that if respondent could make any satisfactory arrangement with the plaintiff in reference to gaining time it would make no difference to him how long credit he might thus obtain from the plaintiff in which to pay said balance.

Respondent says he desired to purchase the land, but was not able to pay all the purchase money in hand but was able to pay all except the \$64.00 or \$65.00 due the Plff and with the view of obtaining a short credit for that sum Respondent went to see the plaintiff on that subject.

Respondent states that on seeing the plaintiff, and informing him of what he desired in the premises that plaintiff told him his debt against Flannery was about \$64.00 with a little interest, that if respondent wanted the land to go and purchase it, that he would gladly take respondents note for the \$64.00 due him from Flannery, and wait with respondent until the 25th day of Dec. 1887, and that he could wait no longer, and that he would be glad to make

such an exchange of his debt, and respondent relying on his solemn promise thus made by Peff went home and closed the trade with said Flannery and paid him all the purchase price except the said \$64.00 which by the said understanding and agreement was to be paid to the Peff on or before the 20th day of Decr. 1887 with the accruing interest thereon; Respondent states that but for the promise made by the plaintiff to wait until said time, he could not have made said purchase and he is advised that a court of equity will compel him to abide by his contract and promise so made.

Respondent further states that soon after purchasing said land, he proposed executing his note to the plaintiff for the note on said Flannery pursuant to said contract, but in the mean time a little difficulty sprang up between the said Flannery the Peff whom the latter declined to accept Respondent's note, in violation of his promise and agreement and soon thereafter this suit was brought.

Respondent had no knowledge whatever of the two items amounting to \$11.00 in the Peffs bill mentioned, and while it may be justly due the Peff from Flannery yet he is advised that a court of equity will not charge his land with the payment of any part thereof.

These being the facts of the case Respondent is advised

that a court of equity will not decree his land to be sold until after Decr. the 25 1887. and he is further advised that the court will not require him to pay any of the costs of this suit unless a suit should be necessary after said period to enforce payment.

Respondent having now answered as fully as he is advised it is necessary he hereby denies each and every allegation therein touching his interest, not ^{denied} confessed and avoided. He now prays that the plaintiffs bill be dismissed.

Henry J. Morgan P2

I do swear that the statements of the foregoing answer so far as made in my own knowledge are true & so far as made on information derived from others I believe them true so help me god.

Elkanah D. Barker
^{his}
mark

Sworn to before me the 20 day of March 1887.

H. J. Morgan Comr

Elkanah D. Barker

Ans. } Answer

Jacob Morris

Filed March 30 1887

J. G. Hyatt & Co.

Jacob. Morris - - - - - Off. }
Against }
Jacob. Flanary et al def. }
This

Cause came on this day to be
heard upon the bill of the
plff taken for confessed as
to Jacob Flanary and exhibit-
filed the answer of Elkanah
D. Barker and application
thereto and was argued by
Counsel - On consideration
whereof and for reasons
appearing to the Court John
A. G. Hyatt one of the Cms
of this Court will ascertain
and report, whether or not
the plff agreed to and did
except Elkanah Barker for
the payment of Flanary's debt
and if so for how much - and
he will ascertain whether or
not the plff has a lien for
said purchase money and
how much is due him - and
whether or not Jacob Flanary
has any debt upon which
the plff's judgment is a lien
He will report any fact -

Jacob Morris

vs Deane

Jacob Flanary

Aug. 7 '87

Entered on page 78

C.A. Book No. 3.

J. H. Dyattoe.

Enter this
Sept. 8 '87
H. H. H. H.

deemed pertinent by himself
or inquired by either party, and
report the same to this Court at
its next term. And by consent
it is adjudged ordered and
decreed that that the plff recover
from Jacob Flanary and Alkanah
Barker the sum of \$20 and ex-
ecution may issue therefor -
And the Cause is continued.

Jacob Morris

vs.

Jacob Flannery

Pelff

Deft

In Reply

When this cause was called this day, Elkanah
O Barker by his counsel appeared in court, and presented
his petition sworn to according to law praying to be
made a defendant to the Pelff bill On consideration
of the matters of the said Petition It is adjudged and
ordered that the Pelff so amend his bill as to make
said Barker a defendant thereto. And said Amendment
being accordingly so made. On the Motion of said Barker
leave is granted him to file his answer and the same
was accordingly filed & the Pelff entered a general reply
thereto. and the cause is continued

Jacob Harris

or. 3 Decm No 1

Jacob Harris
Entered page 13

Enter this
30 March 1897.

W. H. M.

Came to Barkers to receive the mare he had traded for, to inform Mr. Barker that in addition to what my father had told him was due from Flannery on the land, there was an additional amount of \$11.00 due for a house site embracing about 2 acres. to which Mr. Barker remarked that he knew nothing about that, and that he had been informed by Mr. Morris that the bal. on the note amounting to about \$64.00 was all he had against the land.

The \$11.00 for the house site is just and remains unpaid, but there was some payments made for the house site by Flannery, all I think but about \$1.00 or \$1.50^{cts} but Mr. Flannery succeeded in getting these payments credited on the note - so the \$11.00 for the house site is still due.

My father told me he forgot to speak to Mr. Barker about what was due on the house site.

Mr. Flanary agreed to give my father \$90.00 for the first land sold, for which he executed two notes one for \$10.00 the other for \$80.00 and afterwards he agreed to pay my father \$11.00 for a house site - in two pieces, embracing about 2 acres - And Mr. Flanary made the following payments to my father \$5.00 when the notes was given, \$4.00 in Parsons Store \$5.00 in a sow, \$1.00 in fodder and \$10 or 11.00 in fencing and other work, which is all the payments he made on the land sold him.

Jacob Morris
vs 3 Depo-

Jacob Flanagan

Compromise
made before
Completed -

J. A. Hyatt

Jacob. Morris Piff In Chey

Jacob Flanagan Deft
As a final settlement
of all matters involved in
this suit, the following agree-
ment is entered into between
the Plaintiff Morris and E.D.
Barker, Said Barker has
this day deposited in H. J.
Morgan's hands the sum of \$75.50
which is to pay the note sued
on in full and all the cost
which said Barker is to pay
except his own costs, and
said sum is to include the
sum of \$20.00 heretofore decreed
the Plaintiff in this cause,
and said Barker is also
to execute his note to the
Plaintiff for \$11.00 in pay
for the House site referred to
in the Plaintiffs Bill.

The Plaintiff is to release all claim on the land for purchase money, and said Morris is to pay all his own costs except what said sum of \$75.50

will pay, and the suit is
to be dismissed Given
under our hands this Nov.
25th 1887.

Jacob ^{his} Harris
Ekanal ^{his} Barker
mark

Received of H. J. Morgan for E. D.
Barker Forty Dollars on the
above agreement, Nov. 25th 1887.

Jacob ^{his} Harris
mark

I have received from H. J. Morgan
\$5.50 on my fees in this cause.
Nov. 25th 1887.

J. A. Hyatt & Co

Recd the further sum of \$1.50 from H. J. Morgan
Decr. 6th 1887.

J. A. Hyatt & Co

Jacob. Harris
Agreement
vs
Jacob. Glanville

Filed Nov 25th 1887

J. A. Hyatt & Co.

Recd of H. J. Morgan \$1.50 the
sheriffs costs in this suit. Dec 6th 1887

H. S. Belamary D. S.

Received of H. J. Morgan
Twenty seven Dollars
the bal. due the Plaintiff
in this cause pursuant
to the foregoing agreement
Decr. 6th 1887.

A. S. Friedman

Note with Interest from Sept 1st 1886 \$80.00
Credit Sept 10th 1885 \$5.00

" May 1st 1886 11.18 16.18

Interest to Nov. 25th 1887 \$63.82

Total amount Nov. 25th 1887. . . . \$69.81

Commissioners Office

Jonesville Va Novr. 12th 1887.

Jacob. Morris

Plffs

vs

Jacob Flanagan et al Defs

Subj.

Pursuant to a decree entered
in the above styled cause, I will
at my office in the town of Jonesville
Va, on the 25th Novr. 1887, proceed
to perform the duties assigned me
by said Decree. And Jacob -
Morris the Plaintiff and Jacob -
Flanagan and E. D. Barker the
defendants will please attend
and bring with them such
witnesses as they may wish
to introduce, in support of the
issues between the parties.

J. A. Hyatt Comr.

3 copies

Jacob. Morris
3 copies
vs 3 notices
Jacob Flannery
Lo 25th Nov. 1887

Executed by
delivering three
copies of this notice
to Jacob Morris
Jacob Flannery &
E. D. Barker
Nov. 14th 1887.
O. D. Flannery
D. D.

The Commonwealth of Virginia,

To the Sheriff of LEE COUNTY--Greeting:

WE COMMAND YOU to summon

Jacob Flannery

to appear at the Clerk's office of the Circuit Court of Lee County, at the Court House
on the first Monday in *February* next, being Rule Day, to answer a
Bill in Chancery exhibited in our Court against *him*, by *Jacob*

Morris

And have then and there this Writ. Witness, J. A. G. HYATT, Clerk of our said
Court, at the Court House, this *21st* day of *January* 188*7* in
the 1*1* year of the Commonwealth.

J. A. G. Hyatt Clerk.

A Copy Teste:

69

Jacob Morris
no. 3 Spain Chey
Jacob Flannery
To Hebray Rules 887

Executed by delivering
an office copy of this
Spa, to the wife of Jacob
Flannery and by reading
& explaining the same
to her, she being a white
person over 21 years of
age, and he not
being found at his
usual place of abode
Subj⁸⁸⁷
E. C. Flannery Deputy
for R. D. Flannery S. L. C.